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U.S. COURT OF DISTRICT JUDGES N.Y.

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P.M. _____

TIME A.M. _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RICHARD STIRRAT,

Plaintiff,

02 CV 2842 (SJ)

-against-

AMENDED
MEMORANDUM
AND ORDER

ACE AUDIO/VISUAL, INC.,

Defendant.
-----X

A P P E A R A N C E S:

ZAWACKI, EVERETT, GRAY & MCLAUGHLIN
1216 John Street, Suite 1214
New York, NY 10038
By: Robert James Tighe, Esq.
Attorneys for the Plaintiff

ACE AUDIO/VISUAL, INC.
c/o DOAR
170 Earle Avenue
Lynbrook, New York 11563

ACE AUDIO/VISUAL, INC.
c/o MARC HOCHLERIN
33-49 55th Street
Woodside, New York 11377-1931

JOHNSON, Senior District Judge:

Plaintiff Richard Stirrat ("Plaintiff") brings this action under the Age
Discrimination in Employment Act of 1967 ("ADEA"), 29 U.S.C. § 623(a), New York
Executive Law § 290 et seq., ("New York State Human Rights Law" or "NYSHRL"),

cm

and the New York City Administrative Code, § 8-107.1(a) ("New York City Human Rights Law" or "NYCHRL"), alleging that defendant Ace Audio/Visual, Inc. ("Defendant") wrongfully terminated his employment because of his age. By order dated September 24, 2004, this Court granted the Plaintiff's motion to strike the Defendant's answer and entered a default judgment against the Defendant under Rule 37(b)(2) of the Federal Rules of Civil Procedure for its failure to comply with various discovery orders. After ordering the default judgment in favor of the Plaintiff, this Court referred this matter to Magistrate Judge Viktor V. Pohorelsky for the purposes of determining the Plaintiff's award for damages, costs, and fees.

On September 16, 2005, Magistrate Judge Pohorelsky issued a Report and Recommendation ("Report") finding that the Plaintiff should be awarded \$88,006.71 in back pay damages, including prejudgment interest, and \$8,000 in compensatory damages. Magistrate Judge Pohorelsky also determined that the Plaintiff's claims for front pay, liquidated damages, and punitive damages should be denied.


A district court judge may designate a magistrate to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within ten days of service of the recommendation, any party may file written objections to the magistrate's report. See id. Upon de novo review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. See id.

The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's Order. See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

In this case, objections to Magistrate Judge Pohorelsky's Report were due within ten days of receipt of the September 16, 2005 Report. No objections were filed with this Court. Upon review of the Report, this Court therefore adopts and affirms the Report of Magistrate Judge Pohorelsky in its entirety.

SO ORDERED.

Dated: November 8, 2005
Brooklyn, New York



Senior U.S.D.J.